

AN ACT

ENTITLED, An Act to prohibit certain contract restrictions on the use of ethanol blender pumps by retailers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 37-2-34 be amended to read as follows:

37-2-34. Terms used in §§ 37-2-35 to 37-2-38, inclusive, mean:

- (1) "Franchise-related document," a franchise agreement, branded jobber contract, branded marketer agreement, and any other contract or directive of a franchisor relating to terms or conditions of the sale of fuel by a franchisee or customer;
- (2) "Renewable fuel," biodiesel, biodiesel blend, ethyl alcohol, and ethanol blend, all as defined in § 10-47B-3, and any motor fuel made from a blend, in any ratio, of gasoline and the product commonly or commercially known as E-85 or an ethanol blend and the product commonly or commercially known as E-85.

Section 2. That § 37-2-35 be amended to read as follows:

37-2-35. No franchise-related document entered into or renewed on or after July 1, 2008 may contain any provision allowing a franchisor to restrict the franchisee or any affiliate of the franchisee from:

- (1) Installing on the marketing premises of the franchisee a renewable fuel pump or tank, except that the franchisee's franchisor may restrict the installation of a tank on leased marketing premises of the franchisor;
- (2) Converting an existing tank or pump on the marketing premises of the franchisee for renewable fuel use;
- (3) Advertising the sale of any renewable fuel, including through the use of signage;
- (4) Selling renewable fuel in any specified area on the marketing premises of the franchisee,

- including any area in which a name or logo of a franchisor or any other entity appears;
- (5) Purchasing renewable fuel from sources other than the franchisor if the franchisor does not offer its own renewable fuel for sale by the franchisee;
 - (6) Listing renewable fuel availability or prices, including on service station signs, fuel dispensers, or light poles;
 - (7) Allowing for payment of renewable fuel with any form of payment available for any other type of fuel;
 - (8) Installing on the marketing premises of the franchisee an ethanol blender pump as defined in section 2, chapter 15 of the 2010 Session Laws; or
 - (9) Using any pump to dispense a specified ethanol blend or range of blends, if the pump is approved by the authority having jurisdiction, as defined in § 34-38-23, for dispensing the specified ethanol blend or range of blends.

Nothing in this section authorizes any activity that constitutes mislabeling, misbranding, willful adulteration, or other trademark violations by the franchisee.

Section 3. That § 37-2-37 be amended to read as follows:

37-2-37. No franchise-related document that requires that three grades of gasoline be sold by the applicable franchisee may prevent the franchisee from selling one or more renewable fuels in lieu of one, and only one, grade of gasoline.

An Act to prohibit certain contract restrictions on the use of ethanol blender pumps by retailers.

I certify that the attached Act
originated in the

HOUSE as Bill No. 1216

Chief Clerk

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1216

File No. _____

Chapter No. _____

Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock ____ M.

Secretary of State

By _____
Asst. Secretary of State